IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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Writ Petition No. 3748 of 2005

Between:

S.V.V.High School, Tadikonda, rep.by its President & Correspondent, Guntur District.

..... PETITIONER

AND

1.State of A.P., rep. by its Secretary to Govt., Education Dept.,

Secretariat, Saifabad, Hyderabad.
2.The Commissioner & Director of School Education, A.P.,

Hyderabad.
3.The Regional Joint Director of School Education, Guntur.
4.The District Educational officer, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate, writ, order or direction more particularly one in the nature of writ of Mandamus declaring as illegal, arbitrary and unconstitutional the action of the 3rd respondent in not approving the selection conducted by the petitioner on 25-11-03 and issue a consequential direction to the respondents to approve the same from date of interview with all other benefits and pay compensation.

Counsel for the Petitioner: MR.AKA.VENKATARAMANA

Counsel for the Respondent Nos.1 to 4: GP FOR SCHOOL EDUCATION

The Court made the following :

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O R D E R:

This writ petition is filed by the President and Correspondent of S.V.V. High School, Tadikonda, seeking a writ of Mandamus, declaring the action of the respondents in not approving the selection made by the management of the petitioner's school on 25.11.2003 as arbitrary and illegal and consequently to direct the respondents to approve the selection made by the management of the petitioner's school.

2. The petitioner's school was established in the year 1945 after obtaining necessary permission from the competent authority as per the rules then in vogue. The school receives grant-in-aid from the State Government. A proposal was submitted on 10.03.2003 to the District Educational Officer, Guntur (4th respondent) to accord necessary permission to fill up certain aided teaching and non-teaching posts having regard to the need, workload and students strength in the school. The District Educational Officer, Guntur, directed the Deputy Educational Officer, Guntur, to submit his remarks/report. The Deputy Educational Officer, Guntur, visited the petitioner's school and submitted his detailed remarks/report. Based on the said report, the District Educational Officer, Guntur, issued proceedings R.C.No.3521/B1/2003, dated 03.07.2003 recommending for grant of permission to fill up vacant posts. Consequential proceedings came to be issued by the Regional Joint Director of School Education, Guntur (3rd respondent), granting permission to fill up the posts of four S.G.B.T., one Grade-II Telugu Pandit, one Record Assistant and two Attenders. Notification has been issued in three daily newspapers inviting applications from eligible and qualified candidates, apart from making a request to the District Employment Officer, Guntur, to sponsor eligible candidates. A committee was constituted to select the candidates for the posts notified. Selections were conducted on 25.11.2003 as per the schedule duly following the procedure

prescribed in G.O.Ms.No.1 Education, dated 01.01.1994. Proposals were sent to the Deputy Educational Officer, Guntur, for approval with regard to the selection of the candidates for the posts notified. The Deputy Educational Officer, Guntur, forwarded the said proposals to the District Educational Officer, Guntur. However, the District Educational Officer, Guntur, issued proceedings in R.C.No.13346/B1/2003, dated 27.11.2003 and directed the Deputy Educational Officer, Guntur, to keep the selections conducted by the petitioner's school in abeyance on the ground that some complaints received regarding the selection process. An enquiry was conducted and the allegations made, with regard to the selection of candidates, were found to be not correct. Thereafter, a proposal was sent to the District Educational Officer, Guntur, for approval. Subsequently, selection proposals were kept in abeyance in view of the Memo. dated 20.10.2004 issued by the Government.

3. Heard counsel for the petitioner and the Government Pleader for School Education and perused the records.

4. The contention of the petitioner is that the general ban under Memo. dated 20.10.2004 cannot be made applicable to the case on hand, since the competent authority has accorded necessary permission to fill up the posts much prior to the ban imposed under the Memo. dated 20.10.2004. In support of the said contention, the learned Counsel for the petitioner has relied upon a decision of this Court in W.P.No.22188 of 2004, wherein this Court has dealt with an identical issue. This Court, having considered the scope of Memo. dated 20.10.2004, held that in the Memo. dated 20.10.2004 though it is stated that no new posts of grant-in-aid would be created and the existing vacancies will also not be filled up, in the very same Memo, it is stated that the general ban is not applicable for the posts for which permission was specifically granted by the Government and accordingly permitted the petitioner therein to proceed with the selection process notwithstanding the ban imposed under the Memo. dated 20.10.2004.

5. The learned Government Pleader for School Education appearing for the respondents does not dispute the same.

6. Accordingly, the writ petition is disposed of with a direction to the respondents to pass orders of approval in accordance with Law notwithstanding the ban imposed under the Memo. dated 20.10.2004, within four weeks from the date of receipt of a copy of this Order, so as to enable the petitioner to fill up the vacant posts. No costs.

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B.SESHASAYANA REDDY, J.

Dated: 10th June, 2005.

Note:

Issue C.C. in a week.

B/O

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.The Secretary, Education Department, State of A.P.,

Secretariat, Saifabad, Hyderabad.
2.The Commissioner & Director of School Education, A.P.,

Hyderabad.
3.The Regional Joint Director of School Education, Guntur.
4.The District Educational officer, Guntur District.

5. Two C.Cs. to the Government Pleader for School Education,

High Court Buildings, Hyderabad. (O.U.T.)

6. 2 CD copies

*Form-NIC-OGS/WP{**JA**}*